

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DR. J. DAVID GOLUB,

Plaintiff,

19-cv-10309 (JGK)

- against -

ORDER

BERDON LLP,

Defendant.

JOHN G. KOELTL, District Judge:

The plaintiff has moved for reconsideration of this Court's Memorandum Opinion and Order dated April 26, 2022, which dismissed with prejudice the plaintiff's claims alleging violations of federal law but denied without prejudice the defendant's motion to dismiss for lack of subject matter jurisdiction based on diversity of citizenship jurisdiction because there were factual issues relating to the plaintiff's domicile when this action was brought. The plaintiff has presented no plausible argument that the Court erred in dismissing the plaintiff's claims alleging violations of federal law. To support his argument that he was a citizen of South Carolina at the time that he brought the current lawsuit, the plaintiff has submitted various papers. But those papers simply raise a question of fact as to the plaintiff's domicile at the time that he brought the current lawsuit. Those factual questions will be resolved at the evidentiary hearing scheduled

for September 7, 2022. Therefore, the plaintiff's motion to vacate the Order scheduling the September 7, 2022, evidentiary hearing as moot is denied.

The plaintiff is reminded that he is required to comply with the discovery schedule set by this Court and is required to appear at the September 7, 2022, evidentiary hearing, at which time the plaintiff will be able to present any evidence that he was in fact a domiciliary of South Carolina at the time that he brought the current lawsuit. If the plaintiff fails to produce the requested discovery or fails to appear for the evidentiary hearing as scheduled, this case may be dismissed for failure to prosecute.

The request to vacate or reconsider this Court's April 26, 2022, Memorandum Opinion and Order is denied. The Clerk is directed to close Docket Nos. 88, 91, and 93.

SO ORDERED.

Dated: New York, New York
July 21, 2022



John G. Koeltl
United States District Judge